


GREENVILLE POLICE DEPARTMENT POLICY AND PROCEDURES MANUAL		
Chapter 74	Legal Process	
Date Initially Effective 11/15/94	By The Order Of:  Hassan M. Aden, Chief of Police	
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The purpose of this directive is to provide guidelines in performing and recording the Greenville Police Department's legal process functions, including records, civil process, criminal process, financial requirements and property management.

74.1.1 LEGAL PROCESS FUNCTION

CALEA Standard: 74.1.1

The Greenville Police Department utilizes the North Carolina Warrant Repository "NCAWARE" for all warrants. The function of NCAWARE is to provide real-time statewide warrant and summons access to all law enforcement and court officials from any location with web access and to provide the ability to print and serve outstanding processes from any county in the state. It also allows law enforcement to perform automatic searches for outstanding processes on any person entered on a process. Only copies of NCIC warrants obtained by the Greenville Police Department are kept in the Communications Center as required by NCIC regulations.

When encountering subjects and making inquiries for active processes such as; Orders for Arrest, Warrants for Arrest, and Criminal Summons officers should be aware that out-of-state processes are not included in NCAWARE. Therefore, officers should also check NCIC as well for active processes.

NCIC Warrants

If a subject has a confirmed NCIC entry Hit the following procedures shall be followed:

- The officer shall ensure the warrant is still valid in NCAWARE
- NCAWARE special instructions should also be checked prior to service and after service
- An investigative supplement documenting the details of the arrest shall be completed
- Communication Center personnel who receive a NCIC Hit Request and subsequent Hit Confirmation will ensure that the NCIC Clear is done
- Communications Center personnel will forward all NCIC data (Hit Request, Confirmation & Clear) via email to the investigating officer prior to the end of their tour of duty
- The investigating officer after being notified by Communications shall complete an investigative supplement

Communications personnel shall upon request provide a requesting agency a faxed copy of an NCIC warrant on subjects who are arrested out-of-state based on a NCIC entry.

Warrant Service Procedures

Warrants in NCAWARE are valid anywhere in North Carolina and may be served by any appropriate law enforcement agency. Extradition does not apply to in-state warrants. Upon notification by another agency that they have a subject wanted by Greenville Police in custody, Communications shall request the agency to serve the warrant. This may include the magistrate in the jurisdiction of arrest setting bond. In the event, the other agency incarcerates the subject; the jail in that jurisdiction may contact the Pitt County Detention Center who will arrange to pick up the subject as part of their routine transport. If special requests are listed on the NC AWARE entry (issuing agency will pick-up, notify officer, etc) the on-duty supervisor and/or on-call Criminal Investigations Bureau supervisor should make arrangements to honor reasonable requests.

Greenville Police officers attempting to serve a warrant or Order for Arrest shall verify the status of the process in NCAWARE. If an officer conducts a warrant search on a subject and locates an un-servable process in NCAWARE and it is during business hours then the officer or a telecommunicator should contact the Clerk of Court and determine if the warrant can be converted in NCAWARE. If it has not been, the Clerk of Court can convert the warrant. The Clerk of Court may only be contacted after hours if it is a serious offense warrant.

In cases with old warrants in NCAWARE, the warrant information may indicate "Paperwork Destroyed". In this case the officer or a telecommunicator should contact the DA's office and inquire if prosecution is still desired. If prosecution is still desired then the officer or a telecommunicator should request the process be converted to electronic by the Clerk of Court.

74.1.2 WARRANT SERVICE RECORDS

CALEA Standard: 74.1.2

Department Assignment for Process and Service

The Greenville Police Department Warrant Unit carries out the warrant processing function. Warrant Unit officers shall routinely check the "Assigned/Pending List" in NC AWARE to view the processes that have been assigned to the Greenville Police Department. The officers will then assign the process to a police district, NCIC file, or the District/Summons file according to the type of process and the district that the defendant's address is located in. If the process is determined not to be within the jurisdiction of the Greenville Police Department the process shall be electronically forwarded by a Warrant Unit officer to the appropriate agency if known or returned to the Clerk of Court. Upon attempted service of a process, the officer should note the attempted service in NC AWARE and the result of the service attempt. Warrant Unit officers shall make any necessary updates in NC AWARE. Misdemeanor warrants and Orders for Arrest are kept in Greenville Police Department's district files in NC AWARE for 180 days before being returned to the Clerk of Court by the Warrant Unit officer.

In the event, an officer obtains a warrant on a pending case investigation, the police officer shall record the incident number (OCA) on the warrant. Upon service of a warrant with a recorded investigation number, officers shall complete a supplement to the incident indicating the service of warrant along with the date, time, location of service and any other information pertinent to the incident.

Warrants for arrest and orders for arrest shall receive priority attention by Greenville Police Department personnel when:

- A judicial official or other law enforcement agency requests immediate service of the warrant or order for arrest
- Circumstances indicate that a delay in service may result in injury to an involved party.
- Circumstances indicate that the individual named on the warrant is an immediate danger or threat to the public
- Information is provided indicating the location of an absconder, hard to serve individual or individual actively avoiding service

When Communications is contacted concerning a warrant, Communications personnel will:

- Obtain the wanted person's information and verify any active warrants.
- Obtain the location of the wanted person and confirm that the location is within the Department's jurisdiction.
- Upon confirmation, enter a call for service and assign an officer for warrant service.
- Advise the caller that an officer will attempt warrant service.
- Notify the caller if it is determined that there is either not an active warrant or the location is not within the jurisdiction of the Department.

When contacted by a bail bondsman and an active warrant has been verified the bail bondsman will be advised that the Greenville Police Department will attempt to execute the warrant. The bail bondsman may proceed with their duties only after the officer has completed the arrest/booking procedures. The bail bondsman shall be further advised that they will not be allowed to have any involvement in the arrest/booking procedures. In the event, there is not an active warrant and the bail bondsman is requesting assistance then he/she will be advised that the district officer will be notified and may be in the area should the situation turn violent or other criminal activity occurs.

Police officers having warrants (including search and arrest warrants) in other North Carolina jurisdictions shall contact the jurisdiction's law enforcement agency and advise them of the investigation and pending warrant. The investigating Greenville Police Officer shall request a law enforcement officer from the local jurisdiction serve the warrant. The Greenville Police Officer will advise and assist the officers of the foreign jurisdiction.

Territorial jurisdiction of city police officers to make arrests is governed by N.C.G.S. 15A-402 (C).

Faxed Warrant Service Process

All agencies in the state are not currently using NCAWARE. In the event, an agency who is not in the NCAWARE system contacts Communications requesting a copy of a warrant then an original copy of the warrant should be printed and faxed to the requesting agency. Communications personnel should then attach the fax documentation to the printed copy of the warrant and place in the faxed warrants box in Communications.

Warrant personnel shall confirm the process was served and make a return to the clerk on the original process noting on the back "Faxed copy served by ___PD/SO.

When a request for a faxed copy of a warrant is received, the below listed procedures will be followed:

1. The telecommunicator shall confirm the warrant in Communications.
2. The Telecommunicator, or officer taking the call, shall confirm with the requesting person that the defendant is in custody.
3. If the defendant **is not** in custody, the requesting person shall be informed that we have a warrant for that defendant, and we will either transfer the warrant to their jurisdiction for service, or fax a copy when the defendant is in custody.
4. If the defendant is in custody, a telecommunicator shall complete the Fax Cover Sheet* in the Communications Center to include the following information:
 - a. The name of the person the warrant is being faxed to.
 - b. The agency where the warrant is being faxed.
 - c. The fax number where the warrant is to be faxed.
 - d. The name, division, and telephone number of the supervisor sending the fax.

- e. The date the fax is sent
- f. The defendant's name in the space marked "subject"

*The Fax Cover Sheets already have specific requests for the agency receiving the fax. This will assist with tracking the warrant.

- 5. Fax the warrant, both front and back, to the requesting agency using the fax machine in Communications.
- 6. Felony Warrants Only – notify the investigation officer via email, put the warrant in the envelope, attach the fax cover sheet to the warrant envelope, along with returned service if applicable and place them in the mailbox designated for "served" warrants that is located in Communications.

74.1.3 CIVIL PROCESS

CALEA Standard: 74.2.1, 74.3.2

The Greenville Police Department does not serve civil process documents, as this is a function of the Pitt County Sheriff's Office.

As pursuant to North Carolina General Statute 15A, Subchapter IV, Article 20, only sworn law enforcement personnel will execute Search and/or Seizure Warrants, and Warrants and Orders for Arrest for the Greenville Police Department.

74.1.4 CRIMINAL PROCESS

CALEA Standard: 74.1.1, 74.3.1

Types of warrants to be executed by the Greenville Police Department include:

CITATIONS

A citation is a directive, issued by a law enforcement officer or other person authorized by statute, that a person must appear in court and answer a misdemeanor or infraction charge or charges. The citation must be dated and signed by the officer who issues it. An officer will deliver the citation to the person cited who may sign a receipt on the original. Failure of the person to sign a citation does not constitute grounds for arrest or the requirement that he post a bond.

An officer may issue a citation to any person who he has probable cause to believe has committed a misdemeanor or infraction. The citation must:

- Identify the crime charged, including the date of occurrence, and where applicable, identify the property and other persons involved
- Contain the name and address of the person cited, or other identification if that cannot be ascertained
- Identify the officer issuing the citation
- Cite the person issued to appear in a designated court, at a designated time and date

CRIMINAL SUMMONS

A criminal summons consists of a statement of the crime or infraction of which the person to be summoned is accused, and an order directing that the person so accused to appear and answer to the charges. Criminal Summons should be executed within 90 days of issuance. After 90 days the Summons shall be returned to the office of the Clerk of Court.

WARRANTS FOR ARREST

A warrant for arrest consists of a statement of the crime of which the person to be arrested is accused, and an order directing that the person so accused be arrested and held to answer to the charges made against him/her. It is based upon a showing of probable cause supported by oath or affirmation. A warrant for arrest may be issued, instead of or subsequent to a criminal summons, when it appears to the judicial official that the person named should be taken into custody. Warrants for Arrest should be executed within 180 days of issuance. After 180 days the warrant shall be returned to the office of the Clerk of Court.

Information for misdemeanor and felony warrants obtained by a Greenville Police Officer will include:

- Date and time received
- Type of legal process (Only criminal authorized)
- Nature of the document (Summons or Arrest)
- Source of the document
- Name of defendant
- Officer assigned for service (Obtaining officer)
- Date of assignment (Date issued)
- Court docket number, if available
- Date service is due (Court date)

With NCAWARE it is no longer necessary to enter misdemeanor warrants in NCIC unless the subject is to be extradited from out of state. Therefore, misdemeanor warrants should not be entered into NCIC unless the subject is to be extradited from out of state and the supervisor has approved such entry.

Felony warrants obtained by a Greenville Police Officer will be:

- Entered prior to the end of their tour of duty unless the warrant will be served immediately.
- Have a printed copy of the NCIC entry along with the "other agency copy" of the warrant placed into the "active warrants" mailbox located in the Communications Center.
- Verified with the magistrate that the felony warrant they obtained was entered in NCAWARE under Greenville Police Department.

ORDERS FOR ARREST

An order for Arrest is an order issued by a justice, judge, clerk, or magistrate that orders a law enforcement officer take a named person into custody. Orders for Arrest should be executed within 180 days of issuance. After 180 days the Order shall be returned to the office of the Clerk of Court. An Order for Arrest may be issued when:

- A grand jury has returned a true bill of indictment against a defendant who is not in custody and who has not been released from custody on bail to answer to the charges in the bill of indictment
- A defendant who has been arrested and released from custody on bail and who fails to appear as required
- A defendant has failed to appear as required by a duly executed criminal summons or citation
- A defendant has violated the conditions of probation
- In any criminal proceeding in which the defendant has become subject to the jurisdiction of the court, it becomes necessary to take the defendant into custody
- The Order for Arrest is authorized by state law in connection with material witness proceedings
- When a defendant fails to appear as required in a show cause order issued in a criminal proceeding
- It is authorized by state law in connection with contempt proceedings

An officer having a warrant for arrest in his possession may arrest the person named or described therein at any time and at any place within the officer's territorial jurisdiction.

An officer, who has knowledge that a warrant for arrest has been issued and has not been executed, but who does not have the warrant in his possession, may arrest the person named therein at any time. The officer must inform

the person arrested that the warrant has been issued and serve the warrant upon him as soon as possible. This applies even though the warrant has been returned to the Clerk of Court.

The execution of Criminal Process is governed by North Carolina General Statutes:

N.C.G.S. 15A Subchapter III Article 17 (Criminal Process)

N.C.G.S. 15A Subchapter IV Article 20 (Arrest)

N.C.G.S. 15A Subchapter V Article 23 (Police Processing and Duties upon Request)

SUBPOENAS

The Court Liaison Officer shall deliver subpoenas to the Greenville Police Department and place the subpoenas in a mailbox labeled “unserved subpoenas” which is located at the Community Service Desk. There may be occasions when an officer has obtained a warrant at the magistrate’s office and the magistrate gives a subpoena for the victim/witness to the officer. If an officer receives a subpoena from the magistrate and the victim/witness is not present, the officer shall place the subpoena in the mailbox labeled “unserved subpoenas” which is located at the Community Service Desk. A Community Service Clerk will then electronically enter the subpoenas into the Greenville Police Department’s subpoena tracking system. Once the subpoenas are entered a Community Service Clerk places subpoenas that are listed by district in the district mailboxes that are located in the roll call room. Subpoenas that are for individual police officers are delivered to that officer’s supervisor. When the subpoenas are returned either “unserved” or “served” a Community Service Clerk then enters electronically either “served” or “unserved” for each individual subpoena. If a subpoena is ‘unserved’ the Community Service Clerk will also make a notation indicating why there was no service. The returned subpoenas are then placed in the “subpoena outbox” which is located at the Community Service Desk. The Court Liaison Officer retrieves the returned subpoenas and returns them to the Clerk of Court’s office.

Enforcement Officers

In accordance with North Carolina General Statute 15A, Subchapter III, Article 17, the general statute provides that in those instances where the defendant is called into the law enforcement agency to receive a summons, any employee so designated by the agency’s chief executive officer may serve a criminal summons at the agency office. Therefore, the Chief of Police has designated the Community Service Clerk as having authority to serve criminal summons to those defendants that come into the Police Department Headquarters.

Processing for Search and Seizure and Arrest

North Carolina General Statutes 15A Subchapter II and Subchapter IV govern the procedures for search and seizure, and/or arrest, with or without a warrant, as follows:

ARTICLE 9 (SEARCH AND SEIZURE BY CONSENT)

A law enforcement officer may conduct a search and make seizures, without a search warrant or other authorization, if consent to the search is given. The consent needed to justify a search and seizure under state law must be given:

- By the person to be searched, or
 - By the registered owner of a vehicle or person in apparent control and authority even if owner is present and is silent or does not object.

EXCEPTIONS:

- Driver is not the owner but the owner is present and does not consent. Driver cannot give consent to search.
- Driver is not owner. Owner is not present at the time the request for consent is made, but arrives and objects. If search has started and the owner arrives and objects, the search should stop and a warrant should be obtained.
- A co-owner can give consent to search the premises but this consent is not valid if the co-owner objects. If the objecting co-owner is removed from the scene and the remaining co-owner consents, the consent is still NOT valid.

- Driver is not the owner but the owner is present and does not consent. Driver cannot give consent to search.
- Joint occupants can give consent over entire premises. Joint occupant can consent to search their designated area but not common areas if the other joint tenant is present and objects.
- Joint occupants have common authority to consent, but a joint occupant may not consent to the search of an area designated for another occupant's exclusive use.
- Owner cannot give consent to search the personal effects of an overnight guest or within drawers or closets set aside for overnight guest, but only the area that is in plain view in the room.
- Parent can give consent to search minor child's room.

ARTICLE 10 (OTHER SEARCHES AND SEIZURES)

A law enforcement officer may search the person of one whom he has lawfully arrested as an incident of such arrest. In the course of a search incident to an arrest, an officer may lawfully take from the person arrested any property which such person has about him and which is connected with the crime charged, any other crime, or which may be required as evidence thereof.

Search incident to arrest is limited to the person and the area within lunging reach of the suspect. No search of a vehicle incident to arrest shall occur where suspect is handcuffed and not within lunging distance of the vehicle. Depending on existing circumstances, exceptions may include the following based on appropriate case law:

- Consent to search is given.
- If an officer has reasonable suspicion to believe that a passenger or recent occupant is dangerous and may gain access to a weapon, the officer can 'frisk' the vehicle for weapons.
- Vehicle inventory
- Plain view.

ARTICLE 11 (SEARCH WARRANTS)

A search warrant is a court order and process directing a law enforcement officer to search designated premises, vehicles, or persons for the purpose of seizing designated items and accounting for any items so obtained to the court that issued the warrant.

ARTICLE 14 (NON-TESTIMONIAL IDENTIFICATION)

Non-testimonial identification procedures include:

- Fingerprints
- Measurements
- Blood, breath, urine, saliva, and/or hair specimens
- Voice and/or handwriting samples
- Photographs
- Line-ups

ARTICLE 15 (URGENT NECESSITY)

While such authority exists only for the duration of the urgent necessity, a police officer may take one or more of the following actions when an officer reasonably believes that doing so is urgently necessary to save life, prevent serious bodily harm, or avert or control public catastrophe:

- Enter buildings, vehicles, and other premises
- Limit or restrict the presence of persons in premises or areas
- Exercise control over the property of others

The procedures for search and seizure, and/or arrest, with or without a warrant, are governed by North Carolina General Statutes 15A Subchapter IV as follows:

ARTICLE 20 (ARREST)

Police officers may arrest without a warrant any person who the officer has probable cause to believe has committed a:

- Criminal offense in the officer's presence
- Felonies committed out of the officer's presence when the officer has probable cause and reasonable grounds to believe that the person will evade arrest if not taken immediately into custody.
- Felonies and misdemeanors when there exists one of the "emergency situations" of danger of escape or danger of injury or property damage.

When making an arrest, a law enforcement officer must:

- Identify him/herself as a law enforcement officer unless his/her identity is otherwise apparent
- Inform the arrested person he/she is under arrest
- As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest, unless the cause appears to be evident.

An arrest is complete when:

- The person submits to the control of the arresting officer who has indicated his/her intention to arrest.
- The arresting officer, with intent to make an arrest, takes a person into custody by the use of physical force.

After the arrest is completed, the arresting officer will take the person without unreasonable delay before a judicial official. When the arrest is made without a warrant the officer must obtain a warrant for arrest.

74.1.5 PROPERTY RECEIVED RECORDS

CALEA Standard:

All property received by the agency pursuant to the delivery of legal process services as described in this chapter is accounted for in accordance with the policies and procedures of Greenville Police Department Policy and Procedures Manual, Chapter 84, Section 84.1.1, "Property and Evidence Management Control". The Greenville Police Department does not receive any receipts, disbursements, or audits of funds in the administration of legal process services.

North Carolina General Statutes 14.269.1 and 90-112 govern the confiscation, disposition, and forfeiture of deadly weapons and personal property seized during the delivery of legal process services. Police officers shall observe the mandates of these statutes in the performance of their duties.

All property acquired through the legal process function is disposed of by the agency pursuant to legal authority as directed in North Carolina General Statutes 14-269.1 and 90-112, and in accordance with the policies and procedures as outlined in Chapter 84, "Property and Evidence Management Control".

Greenville Police Department Policy and Procedures Manual, Chapter 43, Section 43.1.6, *Searching for and Seizing Evidence or Contraband*, identifies property information that should be logged for seized property

74.1.6 WARRANT/WANTED PERSON PROCEDURES

CALEA Standard: 74.1.3

The Greenville Police Department utilizes the North Carolina Warrant Repository "NCAWARE" for all warrants. The function of NCAWARE is to provide real-time statewide access to all law enforcement and court officials from any location with web access and to provide the ability to print and serve outstanding processes from any county in the state. Only copies of NCIC warrants obtained by the Greenville Police Department are kept in the Communications Center

The Greenville Police Department has established procedures for maintaining a warrant and wanted persons file to include:

- **Establishing criteria for entering notices in regional, state and federal information systems**

The Greenville Police Department uses the North Carolina Division of Criminal Information System (DCI) and the National Crime Information Center (NCIC), which have computerized Wanted Person Files. Entries into these systems must comply with the rules and regulations set forth by DCI and NCIC. The Wanted Persons Files contain personal descriptors and identifiers for persons who are being sought by the law enforcement community. All warrants that have been entered in DCI/NCIC Wanted Persons are maintained in a separate file. The DCI/NCIC printout shall be attached to the warrant.

- **Establishing criteria needed for receiving information from other jurisdictions**

The criteria needed for receiving information from other jurisdictions will be the same as the criteria for entering notices in the North Carolina of Criminal Information (DCI) system and the National Crime Information Center (NCIC) system.

Canceling Information

The investigating police officer is responsible for ensuring that a cancellation of a wanted person has been completed. A copy of the printout shall be attached to the follow-up investigation.